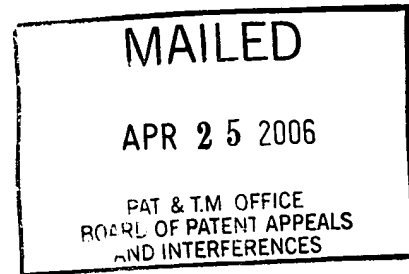


UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_

Ex parte STUART SERKIN and PETER MARYTN  
\_\_\_\_\_



Application No. 09/401,873  
\_\_\_\_\_

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_

This application was electronically received at the Board of Patent Appeals and Interferences on April 4, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On September 15, 2004, appellants filed a reply brief in response to the examiner's answer mailed July 13, 2004. However, there is no indication on the record whether or not the examiner has responded to the reply brief. Section 1208.03 of the Manual of Patent Examining Procedure (8<sup>th</sup> ed., Aug. 2001) states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A)

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acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02.

Accordingly, it is

ORDERED that this application be returned to the examiner to: 1) provide proper response to the reply brief filed September 15, 2004; and 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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